

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte REINER KRAFT and JUSSI P. MYLLYMAKI

Appeal 2007-1744
Application 09/607,370
Technology Center 2100

Decided: August 22, 2007

Before JOSEPH F. RUGGIERO, HOWARD B. BLANKENSHIP, and
JOHN A. JEFFERY, *Administrative Patent Judges*.

RUGGIERO, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 from the Final Rejection of claims 1-20. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Appellants' claimed invention relates to a browser based web crawler which implements the functionality of a web browser into the crawler engine enabling the proper analysis of dynamic data documents. (Specification 4-6).

Claim 1 is illustrative of the invention and reads as follows:

1. A method for browser-enhanced web crawling associated with a network of hub processing units coupled to a plurality of information processing units over a network, the method executed by a web crawler on a hub processing unit associated with the network comprising:

retrieving a web document at an address, and extracting contents of the web document for rendering an intermediate dynamically constructed in-memory webpage representation of the web document at a hub processing unit which is formatted as if displayed for viewing on an end-user's web browser;

loading secondary documents associated with the web document in order to render the secondary documents as part of the in-memory webpage representation, wherein the secondary documents include one or more images with textual content embedded therein, wherein the hub processing unit renders the in-memory webpage prior to analyzing and summarizing the in-memory webpage;

analyzing and summarizing the in-memory webpage representation to produce a text map for the webpage document of the textual contents;
and

using optical character recognition on the images to extract textual content for adding to the textual map for the webpage document.

The Examiner relies on the following prior art references to show unpatentability:

Blumenthal	US 6,026,409	Feb. 15, 2000
Lawrence	US 6,289,342 B1	Sep. 11, 2001 (filed May 20, 1998)
Hobbs	US 6,523,022 B1	Feb. 18, 2003 (filed Jul. 7, 1999)
Meyerzon	US 6,638,314 B1	Oct. 28, 2003 (filed Jun. 26, 1998)

Claims 1-20 stand rejected under 35 U.S.C. § 103(a). As evidence of obviousness, the Examiner offers the combination of Meyerzon, Lawrence, and Blumenthal with respect to claims 1-3, 7-16 and 20, and adds Hobbs to the basic combination with respect to claims 4-6 and 17-19.

Rather than reiterate the arguments of Appellants and the Examiner, reference is made to the Brief and Answer for the respective details. Only those arguments actually made by Appellants have been considered in this decision. Arguments which Appellants could have made but chose not to make in the Brief have not been considered and are deemed to be waived [see 37 C.F.R. § 41.37(c)(1)(vii)].

ISSUES

- (1) Under 35 U.S.C § 103(a), with respect to appealed claims 1-3, 7-16, and 20, would one of ordinary skill in the art at the time of the invention have found it obvious to combine Meyerzon, Lawrence, and Blumenthal to render the claimed invention unpatentable?
- (2) Under 35 U.S.C § 103(a), with respect to appealed claims 4-6 and 17-19, would the ordinarily skilled artisan have found it obvious to modify the combination of Meyerzon, Lawrence, and Blumenthal by adding Hobbs to render the claimed invention unpatentable?

PRINCIPLES OF LAW

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of

obviousness. *See In re Fine*, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the Examiner must make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 USPQ 459, 467 (1966). “[T]he examiner bears the initial burden, on review of the prior art or on any other ground, of presenting a *prima facie* case of unpatentability.” *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). Furthermore, “‘there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness’ . . . [H]owever, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.” *KSR Int’l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741, 82 USPQ2d 1385, 1396 (2007)(quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)).

ANALYSIS

With respect to the Examiner’s obviousness rejection of appealed independent claims 1, 14, and 20, Appellants’ arguments in response assert a failure to set forth a *prima facie* case of obviousness since all of the claim limitations have not been taught or suggested by the applied prior art references. After careful review of the disclosures of Meyerzon, Lawrence, and Blumenthal in light of the arguments of record, however, we do not find Appellants’ arguments to be persuasive.

Appellants' arguments do not attack the combinability of the applied Meyerzon, Lawrence, and Blumenthal references but, rather, initially focus on the alleged deficiency of the Meyerzon reference in disclosing the claimed web page rendering feature. In particular, Appellants contend (Br. 11-14) that Meyerzon has no disclosure of the extraction of the contents of a web document "for rendering an intermediate dynamically constructed in-memory webpage representation" of the web document which is formatted "as if displayed for viewing on an end-user's web browser" as recited in each of the appealed independent claims 1, 14, and 20. In contrast, according to Appellants (*id.*, at 13), Meyerzon is directed to an indexing system in which indexing information is extracted from retrieved web documents and utilized by a search engine to return a list of documents to the browser of a user's computer for rendering at the user's client-side computer.

We do not find Appellants' argument to be persuasive. At the outset, our review of the language of independent claims 1, 14, and 20 reveals that the intermediate dynamically constructed web page feature argued by Appellants as distinguishing over Meyerzon appears only in a "for rendering ..." clause which we interpret as a mere statement of intended use. In other words, the only positively recited features appearing in the first subparagraph of each of claims 1, 14, and 20 are the retrieving of a web document and the extraction of contents from the web document, features which are satisfied by the web indexing disclosure of Meyerzon.

We are further of the view that, even if the patentable merits of the intended use “for rendering” claim language was considered, the disclosure of Meyerzon satisfies any such requirements. As explained and analyzed by the Examiner (Answer 12-13), upon retrieval of a web page document by Meyerzon’s web crawler 206, a filter 314 parses the document and returns text and properties to be included in the in-memory data structure of the web crawler. The text information is information which is to be displayed for viewing at an end-user’s web browser as claimed as indicated by Meyerzon’s disclosure (col. 9, ll. 34-36) that such stored information includes text formatting data.

We also agree with the Examiner (Answer 13) that Appellants’ arguments in the Brief do not contest the Examiner’s position, with which we find no error, that Meyerzon provides a disclosure of the loading, analyzing, and summarizing features appearing in the second and third subparagraphs of claims 1, 14, and 20. Instead, Appellants rely on arguments directed to the alleged deficiency of Meyerzon in disclosing the intermediate dynamically constructed in-memory webpage representation feature, which arguments we found to be unpersuasive as discussed *supra*.

We further find to be without merit Appellants’ argument (Br. 14-15) that the applied Lawrence reference has no disclosure of the claimed intermediate in-memory webpage representation and secondary document loading features. As pointed out by the Examiner (Answer 13), Lawrence has been relied upon only for teaching the claimed optical recognition

feature since a disclosure of the intermediate in-memory webpage representation and secondary document loading features is provided by Meyerzon.

Lastly, we are unpersuaded by Appellants' arguments directed to the Examiner's reliance on Blumenthal for a teaching of the rendering of documents prior to the document analyzing and summarizing operations. In Appellants' view (Br. 15-17), Blumenthal, in contrast to the claimed invention, provides only for the rendering of a document at a client computer, not intermediately at a hub processor, as well as providing only for the rendering of additional document areas, not a complete web page.

We do not find Appellant's argument to be persuasive since it is apparent to us from the Examiner's stated position (Answer 13-14) that the Examiner is not suggesting the bodily incorporation of the cached document display feature of Blumenthal into the web crawler system of Meyerzon. Rather, it is Blumenthal's teaching (Figure 13; col. 17, ll. 36-52) of the rendering of a document prior to user actions such as the analyzing and summarizing actions disclosed by Meyerzon that is relied on as a rationale for the proposed combination with Meyerzon. "The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference.... Rather, the test is what the combined teachings of those references would have suggested to those of ordinary skill in the art." *See In re Keller*, 642 F.2d 414, 425, 208 USPQ 871, 881 (CCPA 1981) and *In re Nievelt*, 482 F.2d 965, 968, 179 USPQ 224, 226 (CCPA 1973).

For the above reasons, since it is our opinion that the Examiner has established a prima facie case of obviousness which has not been overcome by any convincing arguments from Appellants, the Examiner's 35 U.S.C. § 103(a) rejection of independent claims 1, 14, and 20, as well as dependent claims 2-13 and 15-19 not separately argued by Appellants, is sustained.

CONCLUSION

In summary, we have sustained the Examiner's 35 U.S.C. § 103(a) rejections of all of the claims on appeal. Therefore, the decision of the Examiner rejecting claims 1-20 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv)(effective September 13, 2004).

AFFIRMED

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